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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,657	03/05/2002	Conor Kilgannon	TB-2	6108

7590 03/24/2006  
Stephen G. Matzuk  
P.O. Box 767  
Boston, MA 02102

EXAMINER

RINES, ROBERT D

ART UNIT	PAPER NUMBER
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3626

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/090,657	<b>Applicant(s)</b> KILGANNON ET AL.	
	<b>Examiner</b> Robert D. Rines	<b>Art Unit</b> 3626	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 March 2002.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/05/02</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Notice to Applicant***

[1] This communication is in response to the patent application filed 5 March 2002. The IDS statement filed 5 March 2002 has been entered and considered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

[2] Claims 1-8, 10-13, and 16-22 are rejected under 35 U.S.C. 102(e) as being anticipated by Gottlieb (United States Patent Application Publication #2002/0007290).

Art Unit: 3626

[A] As per claim 1, Gottlieb teaches an inventory management system for patient goods and services as prescribed by a prescribing party, comprising: a funding resource center having a resource control system therein, for receiving patient funds, and for allocating at least one of patient funds (Gottlieb; paragraphs [0024] [0030] and Fig. 1), purchased third-party goods and purchased third-party services according to said resource control system (Gottlieb; paragraphs [0024] [0029] [0030] and Fig. 1); an eligibility processing center for receiving patient claim and patient evaluator information (Gottlieb; Abstract and paragraphs [0024]), and providing patient qualification determination information to said resource center (Gottlieb; paragraphs [0024] [0033]); and an aggregate resource center having a contracting system for optimizing the delivery of third party goods and services according to qualified prescribed patient needs and logistics (Gottlieb; paragraphs [0020] [0024] [0029]), said aggregate resource center also including a goods warehouse and distribution system for conveying said qualified prescribed patient needs and services (Gottlieb; paragraphs [0026] [0029] [0046]).

NOTE: While Gottlieb does not specifically use the term warehouse, Gottlieb teaches deliverables to the patient/consumer including items that are kept in an inventory (Gottlieb; paragraph [0029]). The examiner's interpretation of Gottlieb is that an item kept in an inventory (Gottlieb; paragraph [0029]) would be stored in a warehouse, such that it could be made available and shipped to the patient (Gottlieb; paragraph [0029]).

Art Unit: 3626

[B] As per claim 2, Gottlieb teaches a system wherein said funding resource center comprises one of a private healthcare provider, a public healthcare provider and an insurance company (Gottlieb; paragraph [0019]).

[C] As per claim 3, Gottlieb teaches a system wherein said funding resource center includes a business-to-business purchasing system for purchasing goods from at least one of a manufacturer and a supplier (Gottlieb; Abstract and paragraphs [0019] [0029]).

[D] As per claim 4, Gottlieb teaches a system wherein said purchasing system includes a system for shipping goods acquired by said funding resource center from said manufacture and said supplier to said aggregate resource center (Gottlieb; paragraphs [0029] [0038]).

[E] As per claim 5, Gottlieb teaches a system wherein said aggregate resource center includes a capital funding source (Gottlieb; paragraph [0030]).

NOTE: While Gottlieb does not specifically teach the inclusion of a "capital funding source", Gottlieb does teach the use of banking systems in order to facilitate payment transactions (Gottlieb; paragraph [0030]). The examiner's interpretation of the above noted teachings of Gottlieb is that the "other banking systems" (Gottlieb; paragraph [0030]) used in the Gottlieb invention would include line of credit and other standard banking functions traditionally employed to facilitate financial or payment transactions.

Art Unit: 3626

[F] As per claim 6, Gottlieb teaches a system wherein said aggregate resource center comprises a third party (Gottlieb; paragraphs [0021] [0022] [0027] [0046]).

[G] As per claim 7, Gottlieb teaches a system further including small goods and service providers (Gottlieb; paragraph [0022]).

[H] As per claim 8, Gottlieb teaches a system wherein one of said funding resource center and said aggregate resource center includes a service provider scheduler (Gottlieb; paragraphs [0026] [0036]).

[I] As per claim 10, Gottlieb teaches a system wherein said eligibility processing center comprises a third party eligibility processing center (Gottlieb; paragraphs [0024] [0027] [0033] [0046]).

[J] As per claim 11, Gottlieb teaches a method of managing inventory and distribution of patient goods and services as prescribed by a prescribing party, comprising the steps of: controlling patient resources including the steps of receiving money for said patient (Gottlieb; paragraph [0024]) and distributing said money upon receipt of a prescription request and eligibility pre-certification (Gottlieb; paragraphs [0024] [0026] [0030]); pre-certifying patient prescriptions for disbursement of patient resources by comparing said patient prescription to a predetermined pre-certification requirement (Gottlieb; paragraphs [0024] [0025] [0026]); and distributing to said patient at least one of goods and services in response to money distributed by

Art Unit: 3626

said step of controlling patient resources (Gottlieb; paragraph [0029]).

[K] As per claim 12, Gottlieb teaches a method further including the step of purchasing goods for distribution to said patient (Gottlieb; paragraph [0029])

[L] As per claim 13, Gottlieb teaches a method wherein said step of purchasing goods comprises the step of business-to-business purchasing goods (Gottlieb; paragraph [0029]).

[M] As per claim 16, Gottlieb teaches a method further including the step of scheduling the delivery of said goods and service according to said step of controlling patient resources (Gottlieb; paragraphs [0026] [0036]).

[N] As per claim 17, Gottlieb teaches a method further including the step of coordinating the delivery of goods and services with the discharge of said patient from a hospital (Gottlieb; paragraphs [0008] [0026]).

[O] As per claim 18, Gottlieb teaches a method wherein said services comprises one of third party therapy and third party technical services (Gottlieb; paragraphs [0026] [0036]).

[P] As per claim 19, Gottlieb teaches a method wherein the step of scheduling delivery includes the step of scheduling payment to providers of said goods and services (Gottlieb; paragraph [0020] [0026] [0030]).

[Q] As per claim 20, Gottlieb teaches a method wherein said step of distributing further includes the steps of selecting a plurality of third-party source of said goods and services (Gottlieb; paragraphs [0026] [0029] [0040]), patient selecting of one of said plurality of third party sources (Gottlieb; paragraphs [0026] [0040] and Fig. 1), and distributing patient money thereto for rendering prescribed goods and services to said patient (Gottlieb; paragraphs [0024] [0030]).

[R] As per claim 21, Gottlieb teaches a method further including the steps of: determining the need of goods from prior patient prescriptions, and centrally manufacturing said goods in a quantity according to said prior patient need (Gottlieb; paragraph [0029]).

[S] As per claim 22, Gottlieb teaches a further including the steps of: anticipating patient needs according to prior patient needs, and geographically distributing said goods according to the anticipated patient needs (Gottlieb; paragraph [0029]).

NOTE: Gottlieb does not specifically teach anticipating patient needs or forecasting. However, Gottlieb does teach the use of an inventory system and further teaches that certain items can be readily located in an inventory (Gottlieb; paragraph [0030]). The examiner interprets Gottlieb's inventory of products to be inclusive of at least some form of analysis of past purchasing behavior to determine which items should be readily kept in inventory.



*Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

[3] Claims 9, and 14-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gottlieb.

Art Unit: 3626

[A] As per claims 9, 14-15, Gottlieb fails to specifically teach a disposal system (claim 9), receiving goods back and returning them to the inventory (claim 14) and redistributing returned goods (claim 15).

[i] However, Gottlieb indicates that a local provider can "purchase an item or utilize an item from its inventory to fulfill an order" (Gottlieb; paragraph [0041]). Examiner is interpreting Gottlieb's use of an inventory in this capacity to indicate that items are returned to the inventory and redistributed to new patients. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to redistribute an item such as a wheelchair to a subsequent patient provided the item meets the needs of the new patient. Further, it would have been obvious to one of ordinary skill in the art to seek means of disposal for items that had exceeded their economic lifetime.

### *Conclusion*

[4] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wallace et al., SYSTEMS AND METHODS FOR DRUG DISPENSING, United States Patent #6,564,121

Burks et al., MEDICAL TRANSACTION SYSTEM, United States Patent #5,644,778

Malik, SYSTEMS, METHODS AND COMPUTER PROGRAM PRODUCT FOR  
FACILITATING ONE-TO-ONE SECURE ON-LINE COMMUNICATIONS BETWEEN  
PROFESSIONAL SERVICES PROVIDERS AND REMOTELY LOCATED CLIENTS, United  
States Patent Application Publication #2001/0037219

Oscar et al., PHARMACY BENEFITS MANAGEMENT METHOD AND APPARATUS,  
United States Patent Application Publication #2001/0037216

Baruch et al., SYSTEM AND METHOD FOR IMPROVING EFFICIENCY OF HEALTH  
CARE, United States Patent Application Publication #2002/0077849

Borsand et al., PHARMACEUTICAL INFORMATION TRACKING SYSTEM, United States  
Patent Application Publication #2003/0074225

Abbo, MEDICAL PRACTICE MANAGEMENT, United States Patent Application Publication  
#2003/0195774

Cobb et al., SYSTEMS AND METHODS FOR MONITORING ADMINISTRATION OF  
MEDICAL PRODUCTS, United States Patent Application Publication #2003/0055685.

Art Unit: 3626


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert D. Rines whose telephone number is 571-272-5585. The examiner can normally be reached on 8:30am - 5:00pm Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 571-272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RDR

 3/7/08

  
C. LUKE GILLIGAN  
PATENT EXAMINER